

**Introduced by Senator Simitian**  
(Principal coauthor: Assembly Member Frommer)

February 22, 2005

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An act to add Section 23123 to the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 681, as introduced, Simitian. Vehicles: wireless telephones.

Under existing law, motor vehicle operation is closely regulated, and drivers must follow many legal requirements or face criminal sanctions. Under existing law, it is a crime for a person to drive a schoolbus or transit vehicle while using a wireless telephone, except for certain work-related or emergency purposes.

This bill would make it an infraction, operative January 1, 2007, to drive a motor vehicle while using a wireless telephone, unless that telephone is designed and configured to allow hands-free listening and talking operation, and is used in that manner while driving. This offense would be punishable by a fine of not more than \$20 for a first offense and not more than \$50 for each subsequent offense, including all assessments and court costs. The bill would provide that this prohibition does not apply to a person who is using the cellular telephone to contact a law enforcement agency or public safety entity for emergency purposes, or to an emergency services professional while he or she operates an authorized emergency vehicle, as specified.

By creating a new infraction, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known and may be cited as the  
2 California Wireless Telephone Automobile Safety Act of 2005.

3 SEC. 2. The Legislature finds and declares all of the  
4 following:

5 (a) There are significant safety benefits associated with the  
6 availability of wireless communication technologies, including  
7 providing assistance that helps save lives and minimizes property  
8 damage.

9 (b) On a daily basis, California drivers make thousands of  
10 wireless telephone emergency 911 calls.

11 (c) The availability of wireless telephones in motor vehicles  
12 allows motorists to report accidents, fires, naturally occurring  
13 life-threatening situations, including, but not limited to, rock  
14 slides and fallen trees, other dangerous road conditions, road  
15 rage, dangerous driving, criminal behavior, including drunk  
16 driving, and stranded motorist situations.

17 (d) There is growing public concern regarding the safety  
18 implications of the widespread practice of using hand-held  
19 wireless telephones while operating motor vehicles.

20 (e) It is in the best interests of the health and welfare of the  
21 citizens of the state to enact one, uniform, motor vehicle wireless  
22 telephone use law that establishes statewide safety guidelines for  
23 use of wireless telephones while operating a motor vehicle.

24 SEC. 3. Section 23123 is added to the Vehicle Code, to read:

25 23123. (a) A person may not drive a motor vehicle while  
26 using a wireless telephone unless that telephone is specifically  
27 designed and configured to allow hands-free listening and  
28 talking, and is used in that manner while driving.

29 (b) Notwithstanding subdivision (a) of Section 42001 or any  
30 other provision of law, a violation of this section is an infraction  
31 punishable by a fine, including all penalty assessments and court

1 costs imposed on the convicted person, of not more than twenty  
2 dollars (\$20) for a first offense and not more than fifty dollars  
3 (\$50) for each subsequent offense.

4 (c) This section does not apply to a person using a wireless  
5 telephone for emergency purposes, including, but not limited to,  
6 an emergency call to a law enforcement agency, health care  
7 provider, fire department, or other emergency services agency or  
8 entity.

9 (d) This section does not apply to an emergency services  
10 professional using a wireless telephone while operating an  
11 authorized emergency vehicle, as defined in Section 165, in the  
12 course and scope of his or her duties.

13 (e) This section shall become operative on January 1, 2007.

14 SEC. 4. No reimbursement is required by this act pursuant to  
15 Section 6 of Article XIII B of the California Constitution because  
16 the only costs that may be incurred by a local agency or school  
17 district will be incurred because this act creates a new crime or  
18 infraction, eliminates a crime or infraction, or changes the  
19 penalty for a crime or infraction, within the meaning of Section  
20 17556 of the Government Code, or changes the definition of a  
21 crime within the meaning of Section 6 of Article XIII B of the  
22 California Constitution.